

AMENDED IN SENATE MAY 3, 2011
AMENDED IN SENATE APRIL 13, 2011

SENATE BILL

No. 131

**Introduced by Senator Gaines
(Principal coauthor: Senator Calderon)**

January 27, 2011

An act to amend Section 1774 of the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

SB 131, as amended, Gaines. Insurance: surplus line brokers: statement of business transacted.

Existing law requires, on or before the first day of March of each year, the surplus line broker to file with the Insurance Commissioner a sworn statement of all business transacted under his or her surplus line license during the last preceding calendar year. "Business done" or "business transacted" under a surplus line broker's license means all insurance regarding which that surplus line broker is required to file a confidential written report with the commissioner or the commissioner's designee, as provided. Existing law further provides that if 2 or more persons licensed as surplus line brokers are involved in placing an insurance policy, only the one responsible for negotiating, effecting the placement, remitting the premium to the nonadmitted insurer to its representatives, and filing the confidential written report is considered transacting under his or her surplus line broker's license.

This bill would instead require that when 2 or more persons licensed as surplus line brokers are involved in placing an insurance policy, ~~only the one responsible for filing the confidential written report would be considered transacting under his or her surplus line broker's license~~

only one licensed surplus line broker shall include the policy in his or her sworn statement, as specified.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1774 of the Insurance Code is amended
2 to read:

3 1774. (a) On or before the first day of March of each year, the
4 surplus line broker shall file with the commissioner a sworn
5 statement of all business transacted under his or her surplus line
6 license during the last preceding calendar year. That statement
7 shall contain an account of the business done by the surplus line
8 broker for the prior year.

9 (b) For purposes of this chapter, “business done” or “business
10 transacted” under a surplus line broker’s license means all
11 insurance regarding which that surplus line broker is required to
12 file a confidential written report with the commissioner or the
13 commissioner’s designee pursuant to subdivision (a) of Section
14 1763. If two or more persons licensed as surplus line brokers are
15 involved in placing a policy, ~~only the one who is responsible for~~
16 ~~filing the confidential written report pursuant to subdivision (a) of~~
17 ~~Section 1763 shall be considered transacting under his or her~~
18 ~~surplus line broker’s license; then only one licensed surplus line~~
19 ~~broker shall include the policy in his or her sworn statement. The~~
20 ~~surplus line broker who is required to include the policy in his or~~
21 ~~her own statement is either (1) the one who is responsible for~~
22 ~~negotiating, effecting the placement, remitting the premium to the~~
23 ~~nonadmitted insurer or its representatives, and filing the~~
24 ~~confidential written report pursuant to subdivision (a) of Section~~
25 ~~1763, or (2) the one surplus line broker who is delegated the~~
26 ~~responsibility for the filing of the confidential written report~~
27 ~~pursuant to subdivision (a) of Section 1763 pursuant to a written~~
28 ~~agreement that is (A) by and among all of the surplus line brokers~~
29 ~~involved in the transaction, (B) signed by all the surplus line~~
30 ~~brokers involved in the transaction, and (C) provides by its terms~~
31 ~~that the agreement shall be made available to the commissioner~~
32 ~~or his or her designee, upon request.~~

1 (c) The date on which the surplus line broker transacting a policy
2 prepares a bill or invoice for payment of all or part of the premiums
3 due, shall be considered the date on which that business was done
4 or transacted, subject to paragraph (d). This date shall be shown
5 on the face of the bill or invoice and shall be referred to as the
6 “invoice date.”

7 (d) (1) The invoice date shall be no more than 60 days after the
8 policy effective date and no more than 60 days after the insurance
9 was placed with a nonadmitted insurer, except as provided in
10 paragraph (2) of this section.

11 (2) For purposes of this chapter, the amount of gross premium
12 to be reported, if premiums are billed and payable in installments,
13 shall be the amount of the installment premium, provided the
14 amount and due date of each installment, or the basis for
15 determining each installment, is identifiable in the policy or an
16 endorsement, and either of the following conditions is satisfied:

17 (A) Installments under the policy are not billed more frequently
18 than once per month.

19 (B) If more than one installment is billed in any month, the
20 commissioner determines, in his or her discretion, that the
21 installment billing method used does not unduly burden the
22 commissioner’s ability to accurately determine the amount of
23 premium paid by the insured.